IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 23 OF 2004

Laxmi Singh,
presently serving sentence
at Central Jail, Aguada,
Goa. ... Petitioner.

VERSUS

1. State of Goa,
thro' Chief Secretary,
Panaji, Goa.

2. Inspector General of
Prisons, Collectorate,
North Goa, Panaji, Goa.

3. The Superintendent of
Prisons, Central Jail,
Aguada. ... Respondents.

Ms. Asha A. Desai, Advocate for the Petitioner.

Mr. S.N. Sardessai, Public Prosecutor for the Respondents.

CORAM: **N.A. BRITTO, J.**

DATE: 18TH JUNE, 2004.

ORAL JUDGMENT:

The petitioner herein who is undergoing life sentence, having murdered her spouse, has invoked the writ jurisdiction of this court against the order dated 30.6.2003 rejecting her request for the second time to be released on parole, by the learned Inspector General of Prisons.

2. Rule 19 of the Prisons (Goa, Daman and Diu Furlough and Parole) Rules, 1968 reads as follows :-

" A prisoner may be released on parole for such period as the Competent Authority referred to in rule 18 in its discretion may order, in cases of serious illness, or death of any member of the prisoner's family or of his nearest relatives or for any other sufficient cause. (emphasis supplied) ".

3. The first request of the petitioner to be released on parole I am told was rejected by the Order of the learned Inspector General of Prisons dated 30.6.2003 and the second request has now been rejected by Order dated 23.10.2003. The said request to be released on parole was made by the petitioner in order to repair her house which was collapsing and to visit her three minor children aged 4, 7 and 9 years who were presently housed in three different orphanages. The learned I.G.P. came to the conclusion upon perusal of the report that the ground on which the parole was sought was not genuine as the daughters of the said prisoner could very well take care of the house in which she was residing and they could reside in the same as well.

Learned Advocate Ms. Desai on behalf of the petitioner has drawn my attention that under similar rules framed by the Delhi Administration, a prisoner

can be released on parole either for the construction of her house or for repairs of her badly damaged house. Learned advocate Ms. Desai has also referred to a judgment of a Division Bench of this Court in the case of **Manjulabai K. Gulabe v. State of Maharashtra** (2002 All M.R. (Cri) 1720) and has submitted that the expression "sufficient cause" in Rule 19 of the aforesaid Rules cannot be interpreted by putting a strait-jacket formula. The learned advocate Ms. Desai has further submitted that the reasons assigned by the petitioner to be released on parole were good reasons to be considered within the said expression "sufficient cause" appearing in rule 19 of the said Rules.

On the other hand, Shri Sardessai, the learned P.P. has submitted that the I.G.P. is required to follow certain procedure as prescribed by Rule 8 of the said rules before a prisoner is released on parole and that the learned I.G.P. had rejected the request of the prisoner by taking into account the reports submitted by the Superintendent of Police (North) in which he had also stated that the petitioner was described by the neighbours as a cruel woman and in case she is released she may commit heinous crime again. However, from the

impugned order dated 30.6.2003 it appears that what has weighed in the mind of the I.G.P. is that the repairs could be carried out by the daughters of the petitioner who could also take care and reside in the same house instead of staying with their relatives. There is no dispute that both the said daughters of the petitioner are married and are staying with their respective spouses and/or their families.

5. A Division Bench of this Court, in the case cited above, relying on a Full Bench decision of the Gujarat High Court in **Bhikabhai Devashi v. State of Gujarat** (A.I.R. 1987 Gujarat 136) has observed that there cannot be a strait-jacket formula or hard and fast rule for the purpose of laying down any specified category of cases which would amount to sufficient cause as has been observed by the Gujarat High Court and that the Competent Authority is required to take into consideration the facts and circumstances of each case and accordingly decide the application.

6. Admittedly, the prisoner has been in custody as stated from across the Bar from 29.11.1999 and has been undergoing the sentence of life imprisonment from 23.9.2002. The provisions

regarding parole have been introduced in order to make the prison system more humane . The house of the petitioner has been collapsing and has now collapsed obviously because the married daughters are not interested in the said house. The petitioner, as a mother would also like to see the minor children and make arrangements for their stay together,in one place. These two are humane aspects which ought to have been considered by the learned I.G.P. The learned I.G.P. does not appear to have exercised his discretion soundly in rejecting the application for parole made by the petitioner by his order dated 23.10.2003.

7. I am therefore of the opinion that the said order deserves to be set aside and the learned I.G.P. to be directed to release the petitioner/prisoner on parole/temporary bail for a period of four weeks upon execution of Bond of Rs.15,000/- with one surety in the form prescribed under the Rules. The petitioner shall report back to the prison on the 30th day from the day she is ordered to be released on parole/temporary bail.

Rule made absolute on the above terms and conditions. No costs.

N.A. BRITTO, J.

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